



PATENT  
Attorney Docket 044921-5029-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **William E. Munger et al.**

Application No. **09/960,706**

Filed: **September 24, 2001**

Art Unit: **1631**

Examiner: **Marjorie A. Moran**

For: **Identifying Drugs For and Diagnosis of Benign Prostatic Hyperplasia  
Using Gene Expression Profiles**

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. 1.97(d)**

Pursuant to 37 C.F.R. 1.56 and 1.97(d), Applicants bring to the attention of the Examiner the documents listed on the attached PTO-1449. This Information Disclosure Statement is being filed, to the best of the undersigned's knowledge, after the mailing of a Final Office Action but before issuance of a Notice of Allowance. Under the provisions of 37 C.F.R. 1.97(d), a fee of \$180.00 as specified by 1.17(p) is required for the filing of this Information Disclosure Statement together with a statement as specified in 37 C.F.R. 1.97(e) which is supplied below. The Commissioner is hereby authorized to charge **\$180.00** to Deposit Account No. 50-0310 for payment of the Information Disclosure Statement fee as set forth on the accompanying transmittal form.

Copies of the listed documents are attached. Documents aa through ac were cited in an international search report dated December 10, 2004 which issued in a corresponding International Application, International Application PCT/US02/30182. A copy of the International Search Report is also attached. This Information Disclosure Statement is being filed within three months from the mailing date of the international search report.

Applicants respectfully request that the Examiner consider the listed documents and evidence that consideration by making appropriate notations on the attached form. This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that the above-listed documents are material or constitute prior art. If the Examiner applies the documents as prior art against any claim in the application and Applicants determine that the cited document does not constitute prior art under United States law, Applicants reserve the right to present to the Office the relevant facts and law regarding the appropriate status of such document.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the application and the references therein, should one or more of the documents be applied against the claims of the present application.

**Except** for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

Dated: **March 7, 2005**  
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Respectfully submitted  
**Morgan, Lewis & Bockius LLP**

  
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<b>INFORMATION DISCLOSURE CITATION</b> (Use several sheets if necessary) PTO Form 1449			Attorney Docket <b>044921-5029-01</b>		Application No. <b>09/960,706</b>		
			Applicants: <b>William E. Munger et al.</b>			<b>Page 1 of 1</b>	
			Filing Date: <b>September 24, 2001</b>		Group Art Unit: <b>1631</b>		
<b>U.S. PATENT DOCUMENTS</b>							
Initial		Document No.	Date	Name	Class	Sub-Class	Filing Date
aa		2003/0134324 A1	07/17/2003	Munger et al.	435	7.1	06/05/2001
<b>FOREIGN PATENT DOCUMENTS</b>							
		Document No.	Date	Country	Class	Sub-Class	Translation
<b>OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)</b>							
	ab	Elsasser-Beile et al., Comparison of the Activation Status of Tumor Infiltrating and Peripheral Lymphocytes of Patients with Adenocarcinomas and Benign Hyperplasia of the Prostate, (2000) The Prostate, 45:1-7					
	ac	Shidaifat et al., Gossypol Arrests Human Benign Prostatic Hyperplastic Cell Growth at G0/G1 Phase of the Cell Cycle, (1997) Anticancer Res. 17:1003-1010					
Examiner			Date Considered				
<b>Examiner:</b> Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.							

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Substitute for form 1449A/PTO

## INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 1 of 1

### Complete if Known

Application Number	09/960,706
Filing Date	9/24/2001
First Named Inventor	William MUNGER
Group Art Unit	1631
Examiner Name	Moran, M.

Attorney Docket Number 44921-5029-01-US

### U.S. PATENT DOCUMENTS

Examiner Initials *	Cite No. <sup>1</sup>	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number	Kind Code <sup>2</sup> (if known)			
		5,763,429		Bishop et al.	6/9/1998	
		5,882,864		An et al.	3/16/1999	

### FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sub>6</sub>
		Office <sup>3</sup>	Number <sup>4</sup>	Kind Code <sup>5</sup> (if known)				

### OTHER PRIOR ART -- NON PATENT LITERATURE DOCUMENTS

Examiner Initials *	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
		Bubendorf, L et al. Survey of gene amplifications during prostate cancer progression by high-throughput fluorescence in situ hybridization on tissue microarrays. (1999) Cancer Research 59:803-806.	
		Bubendorf, L et al. Hormone therapy failure in human prostate cancer: analysis by complementary DNA and tissue microarrays. (1999) J. Nat. Cancer Inst. 91(20):1758-1764.	

Examiner Signature

Date Considered

<sup>1</sup>EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Unique citation designation number. <sup>2</sup> Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

